IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 210/2005

Shri Leandro Cardozo,
resident of Curca-Cantruli,
P.O. Goa Velha, Ilhas, Goa. ..... Petitioner.

V/s.

1. Shri Inacio Cardoso,
   resident of Curca,
   Canturlim, Tiswadi, Goa

2. The Joint Mamlatdar-I,
   Tiswadi Taluka,
   Panaji, Goa.

3. The Additional Collector,
   North Goa District, having office
   at the Collectorate Building,
   Panaji, Goa.

4. The Secretary (Revenue),
   Government of Goa, having
   Office at Secretariat,
   Porvorim, Bardez, Goa. ..... Respondents.

Mr. M. S. Sonak, Advocate for the petitioner.

Mr. A. F. Diniz, Advocate for the respondent No.1

Mr. S. S. Kantak, Advocate General with Miss Rakhi Chodankar, Addl. Govt. Advocate for respondents No.2, 3 and 4.

CORAM : R.M. LODHA, J.

DATE : 2ND SEPTEMBER, 2005.

ORAL JUDGMENT :

Heard. Rule. The advocates for the respective respondents waive service. By consent, the Rule is finally heard at this stage.

2. It is not in dispute before me that the order passed by the Additional Collector, North Goa, Panaji on 1.8.2001 in case No.MCA/AC/REV/1/2000 was not amenable to revision before the State Government. The order dated 29.04.2005 rejecting the revision filed by the petitioner before the State Government against the order dated 1.8.2001 as not maintainable thus, cannot be faulted. Though in the writ petition, the petitioner has challenged the order dated 29.4.2005 passed by the Secretary (Revenue) whereby the revision was held not maintainable, during the course of arguments, the learned Counsel for the petitioner conceded that the revision preferred by the petitioner before the Secretary (Revenue) was not maintainable.

3. The challenge in the writ petition, the learned Counsel for the petitioner submitted, is to the order dated 1.8.2001 passed by the Additional Collector, North Goa, Panaji. The delay in filing the writ petition in challenging the Order dated

1.8.2001 is explained in paragraph 11 of the writ petition.

4. It does appear from the proceedings that took place before the Additional Collector, North Goa, Panaji that on 7.5.2001, the Additional Collector issued notice to the parties for 14.6.2001. On 14.6.2001, the respondent filed his reply to the revision as well as the stay application. The Additional Collector fixed the matter on 28.6.2001. On 28.6.2001, the matter was adjourned to 11.7.2001. On 11.7.2001, the parties were heard on the stay application; the written arguments were also submitted in so far as stay application was concerned and the matter was fixed for orders. On 19.7.2001, the Additional Collector recorded that the matter was fixed for orders on the written arguments submitted on stay application but the order not being ready the matter was fixed on 1.8.2001. On 1.8.2001, the impugned order came to be passed whereby the revision application itself was dismissed on merits.

5. It does appear that the parties were not heard on the main revision though they were heard on the stay application. By order dated 1.8.2001, the main revision application itself

was disposed of by the Additional Collector which was not proper since the parties were only heard on stay application. The impugned Judgment and Order, thus, suffers from material irregularity and non-observance of principles of natural justice.

6. For the aforesaid reasons, I am satisfied that the impugned order dated 1.8.2001 deserves to be set aside and the matter needs to be remanded to the Additional Collector, North Goa District, Panaji for fresh consideration and decision. Consequently, the writ petition is allowed. The Judgment and Order dated 1.8.2001 passed by the Additional Collector, North Goa District, Panaji is set aside. Revision Case No. MCA/REV/AC/1/2000 is restored to the file of the Additional Collector, North Goa District, Panaji for fresh consideration and decision on the merits of the revision application. The parties are directed to appear before the Additional Collector, North Goa District, Panaji, on 19.9.2005 at 3.00 p.m.. The Additional Collector, North Goa District, Panaji shall hear the parties, if possible on that day, or fix any other date for hearing. The Additional Collector is expected to dispose of the revision application as expeditiously as possible and preferably within three months from the date of

appearance of the parties.

The writ petition is disposed of in the aforesaid terms. No costs.

R.M. LODHA, J.

ssm.